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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,344	03/29/2004	Simon P. Edwards	EDW-031218	2690
30981	7590	09/20/2005	EXAMINER	
King & Jovanovic, PLC 170 College Avenue SUITE 230 HOLLAND, MI 49423			BOCHNA, DAVID	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,344

Applicant(s)

EDWARDS, SIMON P.

Examiner

David E. Bochna

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 6, 8-15, 17 and 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Dupont et al.

In regard to claim 1, Dupont et al. discloses a sanitary gasket (see fig. 8) for use between two pipes, each having a plurality of ferrule faces defining a channel thereon, the sanitary gasket comprising:

a spacing assembly, having a spacing member 18 including a body having an inner edge and an outer edge; and

a gasket assembly 17 having a spacing assembly interfacing edge associated with the inner edge of the spacing assembly,

wherein the gasket assembly is of a softer material than the spacing assembly, such that, upon clamping, the spacing assembly controls the spacing between two pipes, and, in turn, the compression of the gasket assembly.

In regard to claim 2, wherein the spacing assembly further comprises a positioning member 18 associated with the outer edge thereof, the positioning member having at least one ferrule engaging member.

In regard to claim 3, wherein the spacing assembly extends outwardly from one of a bottom surface and a top surface of the spacing member 18.

In regard to claim 4, wherein the at least one ferrule engaging member extends outwardly from each of the bottom surface and the top surface of the spacing member.

In regard to claim 6, the at least one ferrule engaging member 18 extends continuously about the outer edge of the spacing member.

In regard to claim 8, the spacing assembly interfacing edge is mechanically attached (product by process) to the inner edge of the spacing member.

In regard to claim 9, the spacing assembly interfacing edge and the inner edge of the spacing member are one of adhered and co-molded together (product by process).

In regard to claim 10, the spacing assembly interfacing edge and the inner edge of the spacing member overlap.

In regard to claim 11, the gasket assembly further includes a pair of opposing ribs 17 which are configured so as to interface with an opposing channel in each of two pipes.

In regard to claim 12, a combination pipe and gasket assembly comprising (see fig. 9):

a first pipe having a ferrule face defining a channel thereon;

a second pipe having a female face defining a channel thereon, wherein the ferrule faces of the first and second pipe, as well as the channels of the first and second pipes substantially correspond to each other;

a sanitary gasket 17 positioned between the two pipes, the sanitary gasket comprising;

a spacing assembly 18, having a spacing member including a body having an inner edge and an outer edge;

a gasket assembly having a spacing assembly interfacing edge associated with the inner edge of the spacing assembly,

wherein the gasket assembly is of a softer material than the spacing assembly, such that, upon clamping, the spacing assembly controls the spacing between two pipes, and, in turn, the compression of the gasket assembly.

In regard to claim 13, wherein the spacing assembly further comprises a positioning member associated with the outer edge thereof, the positioning member having at least one ferrule engaging member.

In regard to claim 14, wherein the spacing assembly extends outwardly from one of a bottom surface and a top surface of the spacing member.

In regard to claim 15, wherein the at least one female engaging member extends outwardly from each of the bottom surface and the top surface of the spacing member.

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In regard to claim 17, the at least one ferrule engaging member extends continuously about the outer edge of the spacing member.

In regard to claim 19, the spacing assembly interfacing edge is mechanically attached to the inner edge of the spacing member.

In regard to claim 20, the spacing assembly interfacing edge and the inner edge of the spacing member are one of adhered and co-molded together.

In regard to claim 21, the spacing assembly interfacing edge and the inner edge of the spacing member overlap.

In regard to claim 22, the gasket assembly further includes a pair of opposing ribs which are configured so as to interface with an opposing channel in each of two pipes.

In regard to claim 23, the gasket assembly **may** (optional language and therefore need not be present in the applied prior art) include at least one opening (center hole for fluid flow) extending there through, to, in turn, provide leak detection.

In regard to claim 24, Dupont et al. discloses a sanitary gasket for use between two pipes, each having a ferrule face defining a channel thereon, the sanitary gasket comprising:

a spacing assembly 18, having a spacing member including a body having an inner edge, an outer edge, a top surface and a bottom surface; and

a gasket assembly 17 having a spacing assembly interfacing edge, a bore interfacing edge, a top surface and a bottom surface, each of the top surface and the bottom surface including opposing ribs positioned thereon, the spacing assembly interfacing edge associated with the inner edge of the spacing assembly,

wherein the gasket assembly is of a softer material than the spacing assembly, such that, upon clamping, the spacing assembly controls the spacing between two pipes, and, in turn, the compression of the gasket assembly.

In regard to claim 25, wherein the spacing assembly and the gasket assembly are integrated into a single component (see fig. 8).

3. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Behil et al.

In regard to claim 1, Behil et al. discloses a sanitary gasket for use between two pipes, each having a plurality of ferrule faces defining a channel thereon, the sanitary gasket comprising:

a spacing assembly 112, having a spacing member including a body having an inner edge and an outer edge; and

a gasket assembly 114 having a spacing assembly interfacing edge associated with the inner edge of the spacing assembly,

wherein the gasket assembly is of a softer material than the spacing assembly, such that, upon clamping, the spacing assembly controls the spacing between two pipes, and, in turn, the compression of the gasket assembly.

In regard to claim 7, the spacing assembly interfacing edge is spaced apart from the inner edge of the spacing member (see fig. 3).

4. Claims 12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson.

In regard to claim 12, Wilson discloses (see fig. 5) a combination pipe and gasket assembly comprising:

a first pipe having a ferrule face defining a channel thereon;

a second pipe having a female face defining a channel thereon, wherein the ferrule faces of the first and second pipe, as well as the channels of the first and second pipes substantially correspond to each other;

a sanitary gasket positioned between the two pipes, the sanitary gasket comprising;

a spacing assembly 33, having a spacing member including a body having an inner edge and an outer edge;

a gasket assembly 31 having a spacing assembly interfacing edge associated with the inner edge of the spacing assembly,

wherein the gasket assembly is of a softer material than the spacing assembly, such that, upon clamping, the spacing assembly controls the spacing between two pipes, and, in turn, the compression of the gasket assembly.

In regard to claim 18, Wilson discloses the spacing assembly 31 interfacing edge is spaced apart from the inner edge of the spacing member 33.

5. Claims 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hubbard et al.

In regard to claim 26, Hubbard et al. discloses a sanitary gasket for use between two pipes, each having a ferrule face defining a channel thereon, the sanitary gasket comprising:

a gasket assembly having a bore interfacing edge 23, a top surface 22 and a bottom surface (bottom of 22), each of the top surface and the bottom surface including opposing ribs (tops and bottoms of 26) positioned thereon, the spacing assembly interfacing edge associated with the inner edge of the spacing assembly,

a spacing assembly comprising assembly, each of the plurality of plugs having a top surface and a bottom surface;

a plurality of plugs 27 disposed about the gasket 26

wherein the gasket assembly 26 is of a softer material than the spacing assembly, such that, upon clamping, the spacing assembly controls the spacing between two pipes, and, in turn, the compression of the gasket assembly.

In regard to claim 27, wherein the plurality of plugs 27 are fully surrounded by the gasket assembly 26.

In regard to claim 28, wherein the plurality of plugs are positioned at a predetermined distance from the bore interfacing edge of the gasket assembly.

In regard to claim 29, wherein the plurality of plugs 27 are substantially circular in shape.

In regard to claim 30, the plurality of plugs 27 are positioned substantially uniformly positioned about a circumference of the gasket assembly.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dupont et al. Dupont et al. discloses one ferrule engaging member as described above, but not a plurality of ferrule engaging members about the perimeter of the spacing member. However, it would have been obvious to make a plurality of ferrule engaging members because duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).


Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lemon, Fisher et al., Kestly et al., Miyashita, Werra, Jelinek et al., Jelinek, Olson, Moyers, Kuhles, Long and Goetze all disclose similar couplings common in the art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David E. Bochna
Primary Examiner
Art Unit 3679